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In re Application of	:	
JOYCE et al.	:	DECISION ON
Application No.: 09/380,189	:	
PCT No.: PCT/AU98/00127	:	PETITION
Int. Filing Date: 26 February 1998	:	
Priority Date: 26 February 1997	:	
Attorney Docket No.: 070-011	:	
For: COMBINED LIGHT SOURCE AND AIR	:	
PURIFIER	:	

This decision is in response to the submission filed 07 June 2002 which included a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) and a declaration of inventors.

BACKGROUND

On 26 February 1998, applicant filed international application No. PCT/AU98/00127 which claimed a priority date of 26 February 1997, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 September 1998. A Demand for international preliminary examination in which the United States was elected, was filed on 28 September 1998, prior to the expiration of nineteen months from the priority date (26 September 1998 being a Saturday). Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 August 1999.

On 26 August 1999, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 along with, *inter alia*, the U.S. basic national fee and a declaration of inventors executed by two of the four joint inventors.

On 08 December 1999, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

This notification set a one-month extendable period for reply.

On 08 August 2000, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 December 1999 within the time period set therein.

On 26 February 2001, applicant submitted a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) along with a declaration signed by three of the four joint inventors and a STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. 1.47).

On 30 May 2001, the USPTO mailed a decision granting applicant's petition under 37 CFR 1.137(b) and dismissing applicant's petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided. The decision set a two-month time period for reply.

On 07 June 2002, applicant submitted the instant PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) and declaration of inventors.

DISCUSSION

The application is abandoned for failure to respond to the Decision mailed 30 May 2001 within the time period set therein.

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the declaration of inventors filed 07 June 2002 is not in compliance with 37 CFR 1.497(a)-(b). The first page of the declaration is missing. Thus item (1) has not been met. It is noted that a copy of the entire declaration submitted to applicant(s) for signing must be provided. Thus, providing a copy of a first page of the declaration which does not appear to have been presented to and signed by applicants will not be sufficient. For example, a copy of a first page of the declaration which does not include the facsimile transmission information which

appears at the top of the pages of the declaration submitted 07 June 2002 would not be sufficient.

As to item (2), the petition fee of \$640.00 for a small entity was submitted on 07 June 2002.

As to item (3), it is not met since a grantable petition has not yet been provided.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

Since the reply filed 07 June 2002 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Failure to timely file a proper reply will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



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